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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,611	06/26/2003	Marius O. Poliac	P395.12-0001	4910
164 7590 02/08/2007 KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002			EXAMINER NGUYEN, DUSTIN	
			ART UNIT 2154	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/606,611	POLIAC ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 January 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/10/2003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Claims 1-15 are presented for examination. Claims 16-20 are withdrawn from consideration.

*Election/Restrictions*

2. Applicant's election without traverse of Group I, claims 1-15, in the reply filed on 01/12/2007 is acknowledged.

*Specification*

3. The disclosure is objected to because of the following informalities:  
“terminal 18” should be corrected as “terminal 26” on page 3, lines 23.  
“framework 26” should be corrected as “framework 36” on page 5, lines 8.  
Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 8-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson et al. [ US Patent No 7,076,520 ].

6. As per claim 1, Nelson discloses the invention as claimed including a system for automated remote data collection using data retrieved from an apparatus [ i.e. the LEM include the collection of real-time waveform data ] [ 114, Figure 1; col 5, lines 14-65; and col 6, lines 41-48 ], the system comprising:

a microprocessing unit [ Figure 2; and col 9, lines 4-12 ];

a first interface between the apparatus and the microprocessing unit [ i.e. LEM 212 may be configured to conduct telemetry communication with a deployed IDM 112 ] [ Figure 2; and col 8, lines 5-11 and lines 24-35 ];

a communication link [ i.e. internet ] [ 122, Figure 2; and col 7, lines 43-58 ]; and

a second interface between the microprocessing unit and the communication link [ i.e. network interface ] [ Figure 3; col 8, lines 20-24; and col 9, lines 36-49 ];

wherein the microprocessing unit contains an application development framework for developing applications that utilize generic implementation information provided by the application development framework [ i.e. software components ] [ Figure 3; col 7, lines 59-col 8, lines 5; and col 8, lines 58-col 9, lines 20 ].

7. As per claim 2, Nelson discloses an application created by the application development framework [ i.e. device application ] [ col 5, lines 4-14; and col 9, lines 50-60 ]; and an operating system that administers the application through the application development framework [ i.e. remote administration of IMDs via networks or other telecommunication ] [ col 1, lines 24-35; and col 9, lines 21-49 ].

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8. As per claim 3, Nelson discloses wherein the communication link is an Internet link [ col 7, lines 43-58 ].

9. As per claim 8, Nelson discloses wherein the microprocessing unit, the first interface, the communication link, and the second interface are embedded in a dedicated-function appliance [ i.e. LEM unit ] [ 116, Figure 2; col 5, lines 14-19; and col 7, lines 59-col 8, lines 46 ].

10. As per claim 9, Nelson discloses wherein the microprocessing unit, the first interface, the communication link, and the second interface are embedded within the apparatus [ Figure 3; and col 8, lines 58-col 9, lines 20 ].

11. As per claim 10, Nelson discloses wherein the application development framework implements interaction across the first interface and the second interface [ i.e. interact with remote data and expert data centers ] [ col 4, lines 61-col 5, lines 14; and col 7, lines 14-17 ].

12. As per claim 11, Nelson discloses wherein the application provides information regarding the apparatus type, data collection, and data delivery that is specific to a user [ i.e. real-time data of various types ] [ col 5, lines 19-65 ].

13. As per claim 12, Nelson discloses wherein the system supports a plurality of apparatuses [ i.e. from various sources ] [ Figure 2; and col 5, lines 17-65 ].

14. As per claim 13, Nelson discloses wherein the application development framework allows the application to be created and administered regardless of the operating system that is used [ i.e. regardless of the particular type of IMD ] [ col 6, lines 26-41; and col 8, lines 1-5 ].

15. As per claim 14, Nelson discloses wherein the application development framework allows the application to be created and administered regardless of the communication link that

is used [ i.e. various remote computing and communication devices ] [ col 6, lines 26-38; and col 7, lines 42-58 ].

16. As per claim 15, Nelson discloses wherein the apparatus is configured remotely [ i.e. upgrade and developed in a distributed ] [ col 4, lines 37-42; and col 5, lines 63-65 ].

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. [ US Patent No 7,076,520 ], in view of Riff et al. [ US Patent Application No 2002/0082480 ].

19. As per claim 4, Nelson does not specifically disclose wherein a user manually indicates to send retrieved data as electronic mail. Riff discloses wherein a user manually indicates to send retrieved data as electronic mail [ paragraphs 0029, 0033; and claim 61 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Nelson and Riff because Riff's teaching of electronic mail would provide a reliable, scalable, secure and accessible system for worldwide real-time use of the patient's data [ Riff, paragraphs 0005 and 0024 ].

20. As per claim 5, Riff discloses wherein retrieved data is transmitted as electronic mail [ paragraphs 0029, 0033; and claim 61 ].

21. As per claim 6, Nelson does not specifically disclose wherein retrieved data is transmitted as electronic mail to a central database. Riff discloses wherein retrieved data is transmitted as electronic mail to a central database [ paragraphs 0007, 0028 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Nelson and Riff because Riff's teaching would allow a secure transmission of the data where it can be stored, processed, analyzed and presented for viewing [ Riff, paragraph 0024 ].

22. As per claim 7, Nelson does not specifically disclose wherein the retrieved data is accessed with a computer having a web browser. Riff discloses wherein the retrieved data is accessed with a computer having a web browser [ paragraphs 0024 ]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Nelson and Riff because Riff's teaching would allow a secure transmission of the data where it can be stored, processed, analyzed and presented for viewing [ Riff, paragraph 0024 ].

23. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached at (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen

Examiner

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